



FREDERICK COUNTY PLANNING COMMISSION

November 18, 2020

TITLE: **Summer 2020 Cycle of Water and Sewerage Plan Amendments**

PROJECT INFORMATION:

- WS 20-01: Division of Planning & Permitting (Jefferson Village, LLC)
Reclassification of 9.4 acres from S-1/Dev. to S-5/Dev.
- WS 20-02: Division of Planning & Permitting
Various text amendments to the Water and Sewerage Plan ('Plan')
from the Maryland Department of the Environment's approval of the
2019 Triennial Update of the Plan
- WS 20-04: Town of New Market (Richard/Nancy Ellery)
Reclassification of 0.51 acres from W-5/Dev. To W-3/Dev.
- WS 20-06: Bloomfields, LLC
Reclassification of 274 acres from W-5/Dev., S-5/Dev., plus the
depiction of a water storage tank symbol, a sewage pump station
symbol, a 16-inch water line, and the upgrade of a portion of a
sewer line to 16 inches.

STAFF: Tim Goodfellow, Principal Planner II

RECOMMENDATION: Refer to staff report for recommendations

ATTACHMENTS:

- EXHIBIT 1- Staff Report
EXHIBIT 2- Applicants' submissions

Frederick County Division of Planning and Permitting Staff Report

Water and Sewer Plan Amendments Summer 2020 Cycle

ISSUE

The Planning Commission is requested to review the individual amendment requests for a finding of consistency with the Livable Frederick Master Plan or a municipal comprehensive plan.

REQUESTS

WS 20-01: Division of Planning and Permitting (Jefferson Village Center, LLC)
WS 20-02: Division of Planning and Permitting
WS 20-04: Town of New Market (Richard/Nancy Ellery)
WS 20-06: Bloomfields, LLC

BACKGROUND

The purpose of the Planning Commission's review is to determine whether each amendment request is consistent with the Livable Frederick Master Plan or the appropriate municipal comprehensive plan.

The Land Use Article of the Annotated Code of Maryland provides general requirements with regard to a finding of consistency with a comprehensive plan. Section 1-303 *Consistency – General Requirement* of the Land Use Article further defines consistency with a comprehensive plan to mean “an action taken that will further, and not be contrary, to the following items in the plan:”

- 1) Policies;
- 2) Timing of the implementation of the plan;
- 3) Timing of development;
- 4) Timing of rezoning;
- 5) Development patterns;
- 6) Land uses; and
- 7) Densities or intensities.

Furthermore, the Maryland Department of Planning also provides the following guidance on determining consistency with a comprehensive plan:

“...land use regulations and decisions should agree with, and implement what the Plan recommends and advocates. A consistent regulation or decision may show clear support for the Plan. It may also be neutral but it should never undermine the Plan.”

A finding of consistency does not reference whether a case meets the specific criteria, described in the Water and Sewerage Plan, for the requested classification. That determination is made by the County Council in their review. If the Planning Commission finds a request to be inconsistent with the comprehensive plan, then the request is not forwarded to the County Council for review and public hearing.

RECOMMENDATION

Staff recommendations are noted in the individual case descriptions.

IV. COUNTY WATER AND SEWERAGE PLAN CLASSIFICATION SYSTEM

A. General

A classification system has been established for properties that will be served by publicly owned community water and sewer systems. The classification system reflects a progression toward the attainment of public water and sewer service so as to implement the County Water and Sewerage Plan, as well as County or municipal Comprehensive Plans.

The classification system is designed to show need and intent of the County, its municipalities, and the private developer for establishing or extending publicly-owned community water and sewer systems.

Classifications which indicate anticipated improvements within the next six (6) years should be part of an action plan to be implemented within the constraints of funding and various required agreements and approvals. The classification system is not intended to prevent development of publicly-owned community water and/or sewerage systems or facilities prior to or later than the time periods indicated, rather it is the best estimate at the time of adoption as to when such development may be expected to occur. Every effort should be made by the County, municipalities, and developers to progress with water and sewer projects to the point that construction may occur in accordance with the Plan. However, after having achieved one level, there is no guarantee that the next level classification will be granted.

B. Water and Sewerage Plan Classifications

Tracts of land where publicly-owned community water and/or sewer facilities are proposed to be extended by developers or where the County or municipalities anticipate that development may occur within 20 years may be assigned a classification with the suffix "Development" or "Dev.". A "Dev." designation means that the extension or construction of publicly-owned community systems or facilities is dependent upon developer or land owner action and funding.

The year of adoption of a piecemeal Water and Sewerage Plan amendment is noted within the water and sewer classification designations for properties in 4 and 3 categories, (e.g. 90-S-3 means the sewer priority classification of S-3 was approved by the County in 1990).

NPS – No Planned Service

A classification assigned during the Comprehensive Planning Process to land, which is not planned or projected to be served by publicly-owned community water or sewer systems within the timeframe of the County Comprehensive Plan.

PS – Planned Service

A classification assigned during the Comprehensive Planning Process to an area or property shown on the Comprehensive Plan for growth utilizing publicly-owned community water and/or sewer systems, or within a Community Growth Boundary of a community to be served by public water and sewer in the County Comprehensive Plan, within the 11-20 year time frame. Properties within this classification have designations other than Agricultural/Rural or Natural Resource on the County Comprehensive Plan. This classification may also be assigned through the piecemeal application process by a staff-initiated application with regard to location of infrastructure generally or reclassification of properties to implement the Comprehensive Plan, or if the property no longer meets the requirements of its current classification.

S-5/W-5 – Mid-Range Plan Phase

A classification assigned through the Comprehensive Planning Process where improvements to, or construction of, publicly-owned community sewerage or water systems are planned within the 7-10 year time period. Properties classified S-5/W-5 are not required to connect to the community system. Except as provided below, properties requesting this classification shall meet the following criteria:

- a. Have a land use plan designation other than Agricultural/Rural or Natural Resource on the County Comprehensive Plan.
- b. Have zoning other than Agricultural or Resource Conservation.
- c. If located within a municipality where the municipality provides community water and sewer, the property shall be designated in the municipal plan to be provided services in the 7-10 year time frame.
- d. Be located within a Community Growth Area as shown on the Frederick County Comprehensive Plan.
- e. Demonstrate that there is sufficient capacity planned in the systems serving the property within the 7-10 year period.

In addition, this classification may be assigned through the piecemeal application process to property:

- 1) Annexed into a municipal corporation, if the property is located within a municipal growth area and described in an adopted Municipal Growth Element (MGE); or
- 2) Granted a Planned Unit Development (PUD) or Mixed Use Development (MXD) or Open Space Recreation (OSR), or Institutional (I) floating zone classification; or
- 3) Zoned Agricultural, if all the criteria set forth in Section II (E)(8) or, if applicable, Section II (E) (7) are satisfied; or
- 4) To provide public water and/or sewer service to Public Service Facilities, if the applicable criteria in Section II (E) (8) are satisfied.

S-4/W-4 – Concept Evaluation Phase

A classification assigned through the piecemeal application process to properties designated residential, commercial, or industrial, or in general, a category other than Agricultural/Rural or Natural Resource on the County Comprehensive Plan, and where improvements to, or construction of, publicly-owned community sewerage or water systems are planned within the 4-6 year time period. Properties classified S-4/W-4 shall connect to the public system when service lines abut the property. Properties requesting this classification shall meet the following criteria:

- a. The criteria required for the S-5/W-5 classification have been complied with.
- b. The application shall include documents that show conceptually how the applicant plans extensions of water and sewer lines to serve the property, including topographic information from appropriate sources and an estimate of construction costs. Water concept submissions shall consider the County's water pressure zones to develop the concept, e.g., water booster pumping stations or pressure reducing

valves. Sewerage concepts shall consider gravity service as the preferred method (see II (E) (5) (E)). All concept plans shall distinguish between County planned and developer provided facilities, and be complete and accurate as determined by the Division of Utilities and Solid Waste Management (DUSWM).

- c. Adequate capacity shall exist or be programmed within the County or a municipal CIP for the system, which will serve the site. If adequate capacity does not exist, the property owner/applicant must identify and propose needed improvements (as determined by the DUSWM) to provide adequate capacity.
- d. After an S-4/W-4 classification has been granted, an application may be submitted to the Maryland Department of the Environment for Water and/or Sewerage construction permits, as applicable.

S-3/W-3 – Preliminary Design Phase

A classification assigned through the piecemeal application process to properties where improvements to, or construction of, publicly-owned community sewer or water systems are planned to be completed and operational within 3 years. If applicant has not obtained approved water and sewer improvement plans for onsite work within three years or the Preliminary Plan/Site Plan/Phase II Plan expires, they may lose their “3” classification and revert to the “4” classification at the next amendment cycle. Properties classified S-3/W-3 shall connect to the public system when service lines abut the property. Properties requesting this classification shall meet the following criteria:

- a. Criteria required for the S-4/W-4 classification have been complied with.
- b. Applicant shall provide a study of the components of the existing water and wastewater system and identify inadequacies that may result from the development of the property. This study may be performed in conjunction with the *Adequate Public Facilities Ordinance* (APFO) studies.
- c. A preliminary subdivision plan, site plan, Phase II Plan (in the case of PUDs and MXDs or other floating zoning districts), or equivalent plan in a municipality has been approved by the Planning Commission.
- d. A discharge permit, where appropriate, has been approved by all appropriate State agencies.
- e. A hydrogeologic study, where appropriate, supports the establishment of a community water system, which will not be detrimental to adjoining wells or surface waters. The hydrogeologic study is typically required to appropriate both ground (well) or surface waters. A Water Appropriation and Use Permit, where appropriate, has been approved by all appropriate State agencies.
- f. If County funded CIP project(s) are needed to provide service, then construction funds for each project must be contained in the first or second year of the County's approved CIP.
- g. If service is to be provided by developer initiated and funded projects, the developer must have approved and signed water/sewer improvement plans and an approved cost proposal for all improvements required to bring adequate water and

sewer service to the site. This “service to the site” requirement is considered “met” if adequate water and sewer lines abut the site and are located within a public right-of-way or a public water/sewer easement which abut the site.

- h. Satisfaction of Items f. and g. will create a rebuttable presumption in favor of the applicant that service will be available within 3 years.

S-2/W-2 – Engineering Phase

This classification is not mapped. Properties are assigned this category by County staff and shall meet the following criteria:

- a. All criteria required for the S-3/W-3 classification have been complied with.
- b. Improvement plans for water and sewer lines and preliminary design of treatment plants and other infrastructure, as appropriate, have been approved.
- c. Location of facilities, i.e. tanks, pumping stations, treatment plants have been located on the Water and Sewerage Map by prior amendment.
- d. Properties classified S-2/W-2 shall connect to the publicly owned system when service lines abut the property.

During the S-2/W-2 phase, final construction design drawings and documents are prepared, rights-of-way are determined and the necessary acquisitions are pursued, various construction related permits are applied for and obtained, a public works agreement, allocation of taps including multi-year tap agreements and improvement guarantees are approved. Final plats may then be recorded, where appropriate.¹

S-1/W-1 – Existing Service

A classification assigned to properties where publicly-owned community sewer or water systems or private community systems are existing and are connected to and serving a structure(s) on the property. Properties are assigned this classification by County staff to reflect projects recently completed or structures connected to the public water or sewer system. The County Water and Sewerage Plan map will be revised to reflect this status at regular updates.

Multi-Use Water System

A classification assigned during the piecemeal application process to a single parcel or lot or institution serving a number of individuals, with the capacity to provide in excess of 5,000 GPD utilizing a source of ground or surface water. The Multi-Use Water system includes the piping, pumps, tanks, or other facilities utilizing a source of ground or surface water.

Applications to amend the Water and Sewerage Plan to obtain approval to use a Multi-Use Water system on a specific property will be accepted and processed in the same manner as requests for water and sewer category changes. Properties approved to use Multi-Use Water systems will be identified in the Plan text in Chapter 3 and on the Water Plan Map.

¹ See Sec. 1-16-106 of the County Code for additional requirements.

Multi-Use Sewerage System

A classification assigned during the piecemeal application process to a single parcel or lot or institution with a treatment discharge capacity in excess of 5,000 GPD. A Multi-Use Sewerage system involves the collection and discharge of sewage or industrial wastes of a liquid nature and various devices for the storage, pumping, and treatment of such wastes.

Applications to amend the Water and Sewerage Plan to obtain approval to use a Multi-Use Sewerage system on a specific property will be accepted and processed in the same manner as requests for water and sewer category changes. Properties approved to use Multi-Use Sewerage systems will be identified in the Plan text in Chapter 4 and on the Sewer Plan Map.

Applications for Multi-Use Sewerage Systems that propose to utilize a surface application and/or underground drain field system shall include, but not be limited to the following:

1. Analysis of groundwater mounding impacts of the system.
2. Nitrogen balance analysis to show that nitrogen concentrations at a property line or at any watercourse on the property do not exceed 10 mg/l.
3. Identify a suitable replacement area for the discharge/drain field.
4. Determination of treatment system requirements and discharge methods.

WATER & SEWERAGE PLAN AMENDMENTS
Summer 2020 Cycle

STAFF REPORT

Case # WS-20-01

APPLICANT: Division of Planning & Permitting (Jefferson Village Center, LLC)

REQUEST: To reclassify Parcel No. 65 (9.4 acres) from S-1 to S-5

LOCATION: Holter Road at MD 180, Jefferson Pike in Jefferson
(Tax Map 84, Parcel 65. Property ID#14-327339)

Livable Frederick Master Plan — Village Center (VC)

Zoning — Village Center (VC)

Development Status

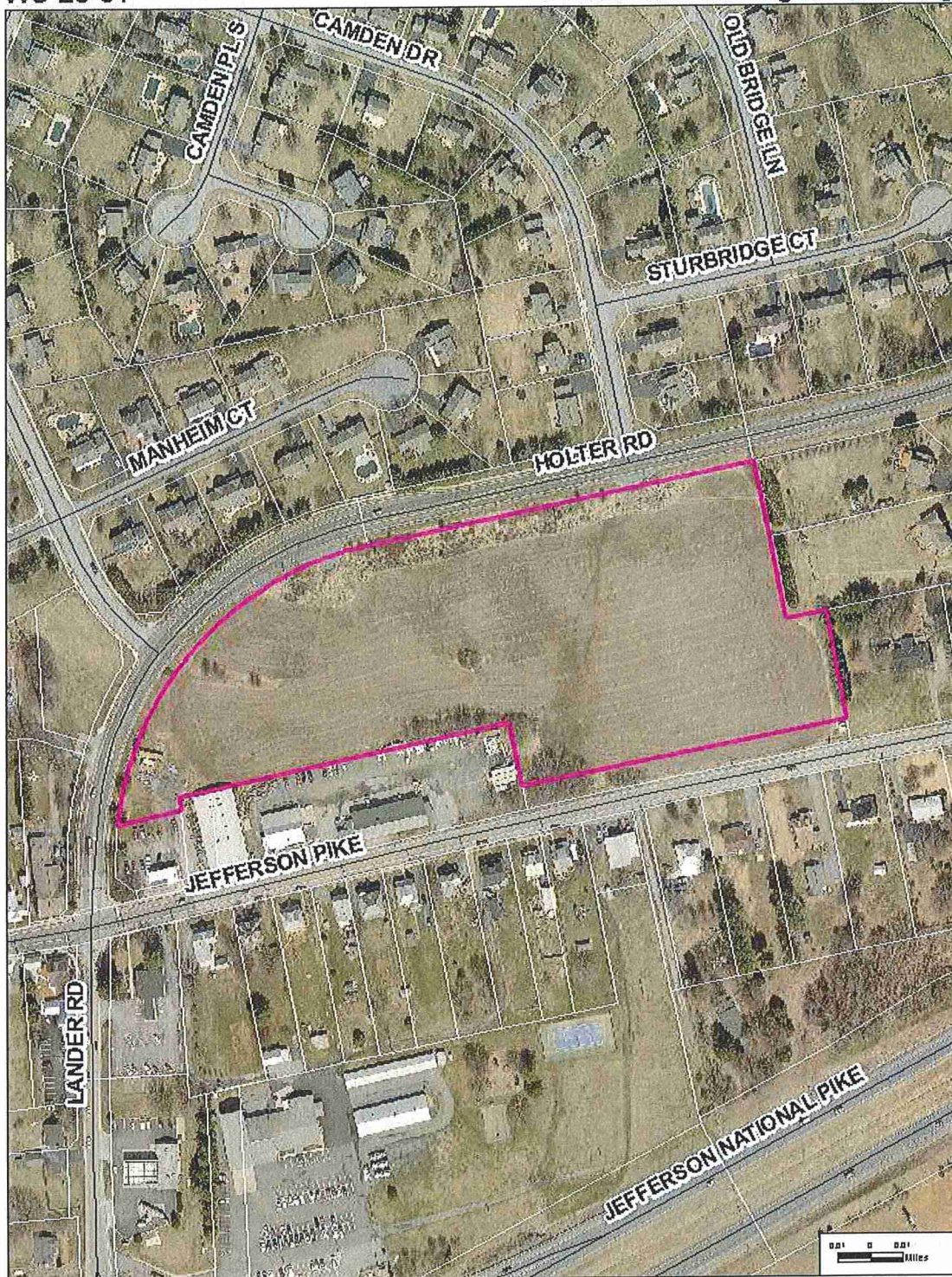
The subject property is a large vacant parcel on the eastern edge of the historic core of Jefferson, and has road frontage on both MD 180, Jefferson Pike, and Holter Road, which is the main entrance into the Cambridge Farms community. No subdivision or site development plan has been approved for the property. Future development of the site is subject to the Village Center Zoning District Overlay Standards contained in §1-19-7.500 of the Zoning Ordinance, whose purpose is to sustain the distinctive character and identity of historic communities in the County.

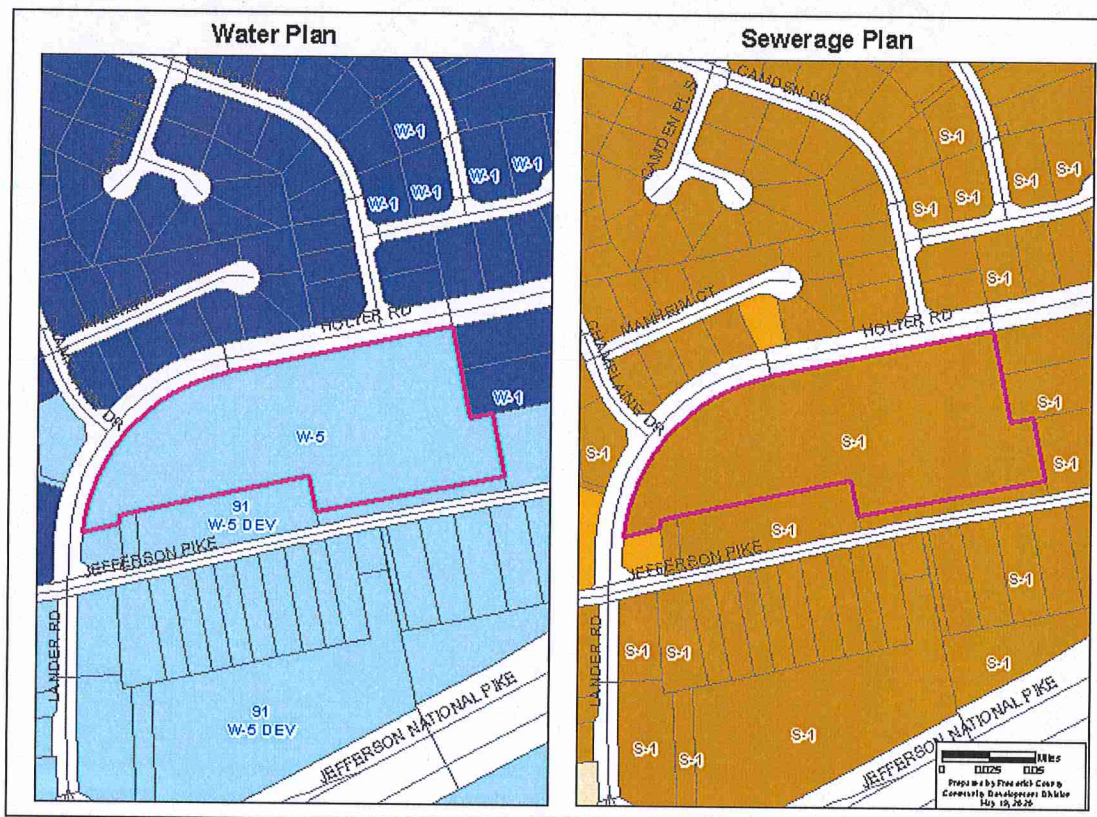
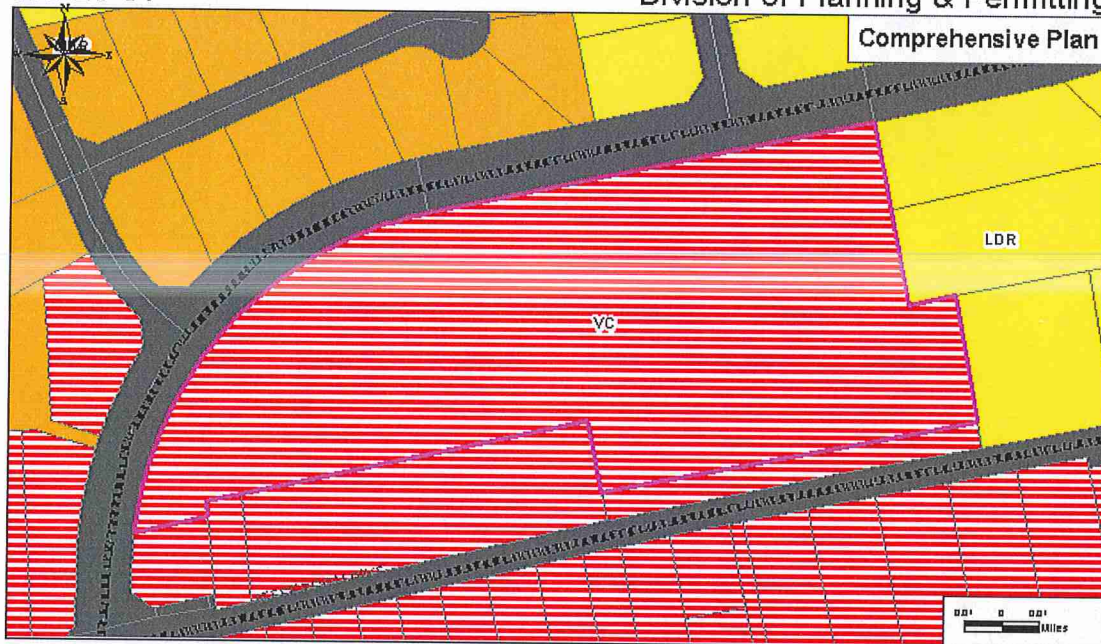
Water & Sewerage Plan Status

The S-1 sewer category is defined as 'Existing Service' and is applied to properties where publicly-owned community sewer or water systems or private community systems are existing and are connected to and serving a structure(s) on the property. This amendment will correct the mapping inaccuracy on the Sewer Map and apply the correct classification of "S-5" so that all required sewer system capacity analyses and tap needs are fully evaluated through future Plan amendments, as there is limited capacity in the Jefferson Waste Water Treatment Plant.

STAFF RECOMMENDATION:

The subject property is located within the Jefferson Community Growth Area and a water and sewer service area. Staff recommends the Planning Commission make a finding of consistency with the Livable Frederick Master Plan.





WATER & SEWERAGE PLAN AMENDMENTS
Summer 2020 Cycle

STAFF REPORT

Case # WS-20-02

APPLICANT: Division of Planning & Permitting

REQUEST: Various text amendments to the Water and Sewerage Plan from the Maryland Department of the Environment's approval of the 2019 Triennial Update of the Plan

BACKGROUND

Every three (3) years, the State of Maryland requires an update to the Water and Sewerage Plan, called the 'Triennial Update.' The Triennial Update includes revisions to various data in the Plan, including infrastructure expansions, new water or wastewater capacities, current permitting information (withdrawals, discharges), as well as any policy changes related to the planning and provision of public water and sewer service.

The Planning Commission found the 2019 Triennial Update of the County's Water and Sewerage Plan to be consistent with the Livable Frederick Master Plan on July 10, 2019, followed by County Council approval of the 2019 Plan on November 19, 2019. The Planning Department then transmitted the County Council-approved 2019 Triennial Update to the Maryland Department of the Environment (MDE) for their review and final approval.

On February 19, 2020, the MDE extended their review of the Council-approved 2019 Triennial Update for 45 days, during which time they requested additional data from Planning Staff. Upon receipt of all requested materials, the MDE issued their formal approval of the 2019 Triennial Update on March 31, 2020, but they 'modified' portions of the 2019 Plan to reflect the incorporation of the new data supplied by staff. These modified portions of the 2019 Plan, plus additional data identified by the MDE (and incorporated into the Plan by Staff) are the subject of the current Amendment. A listing of all the revisions and additions made to the 2019 Triennial Update are attached in the MDE approval letter dated March 31, 2020.

This is the same process—incorporating the elements from MDE's "Modified Plan" into a formal Amendment to obtain a 'clean' Plan approval—that was done during the 2014 Triennial Update of the Water and Sewerage Plan. The MDE approved this process for the 2014 Triennial Update through Amendment WS 15-11 & Council Resolution No. 16-07.

STAFF RECOMMENDATION:

Staff recommends the Planning Commission make a finding of consistency with the Livable Frederick Master Plan for the 2019 Triennial Update of the Water and Sewerage Plan to match the Commission's findings on July 10, 2019.

WATER & SEWERAGE PLAN AMENDMENTS
Summer 2020 Cycle

STAFF REPORT

Case # WS-20-04

APPLICANT: The Town of New Market (Richard/Nancy Ellery)

REQUEST: To reclassify Parcel No. 3888 (0.51 acres) from W-5 to W-3

LOCATION: 145 West Main Street in the Town of New Market
(Tax Map 801, Parcel 3888, Lot 17. Property ID#09-264329)

Town Comprehensive Plan — Low Density Residential

Town Zoning — R-1 Residential

Development Status

The subject property is developed with a single-family residential dwelling.

Water & Sewerage Plan Status

The County and the Town of New Market executed a Water Service Area Agreement in April 2003. This agreement, and all of its subsequent revisions, identifies the county as the sole provider of water and sewer service to the Town of New Market and contains a schedule for providing water taps to the Town for the Town to allocate to existing County sewer customers.

An existing 12-inch water line was installed by the County on Main Street in front of the subject property through Contract 96-W. The property has existing public sewer service and currently uses an individual well. The Applicant will be required to connect to the public water system within 120 days of approval of the W-3 classification per Section IX.C of the *Frederick County Water and Sewer Rules and Regulations*.

At time of connection to the public water supply, the private well must be physically disconnected from the site's potable water supply and, per State regulations under COMAR 26.04.04.11, the well must be subsequently abandoned and sealed by or under the supervision of a master well driller licensed by the State of Maryland or a representative of the Frederick County Health Department.

STAFF RECOMMENDATION:

The subject property is located within the Town of New Market, a County Community Growth Area, and a water service area. Staff recommends the Planning Commission make a finding of consistency with the Town of New Market Master Plan.

WS 20-04

Town of New Market

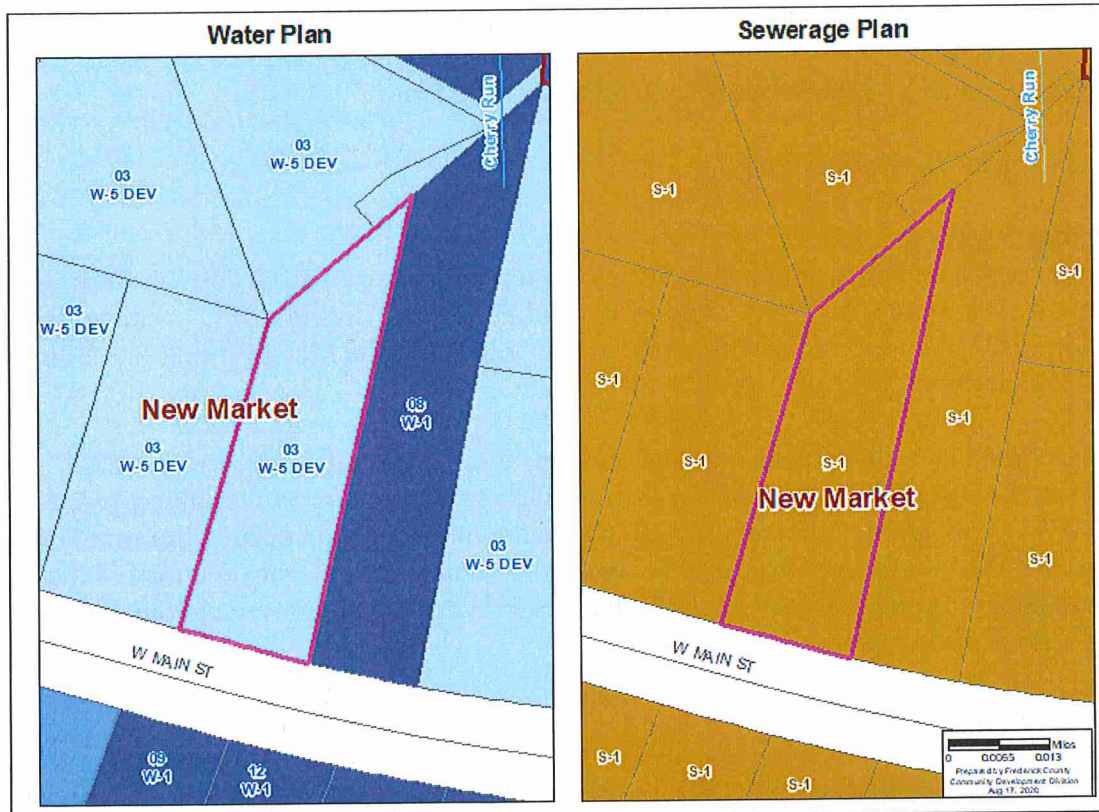
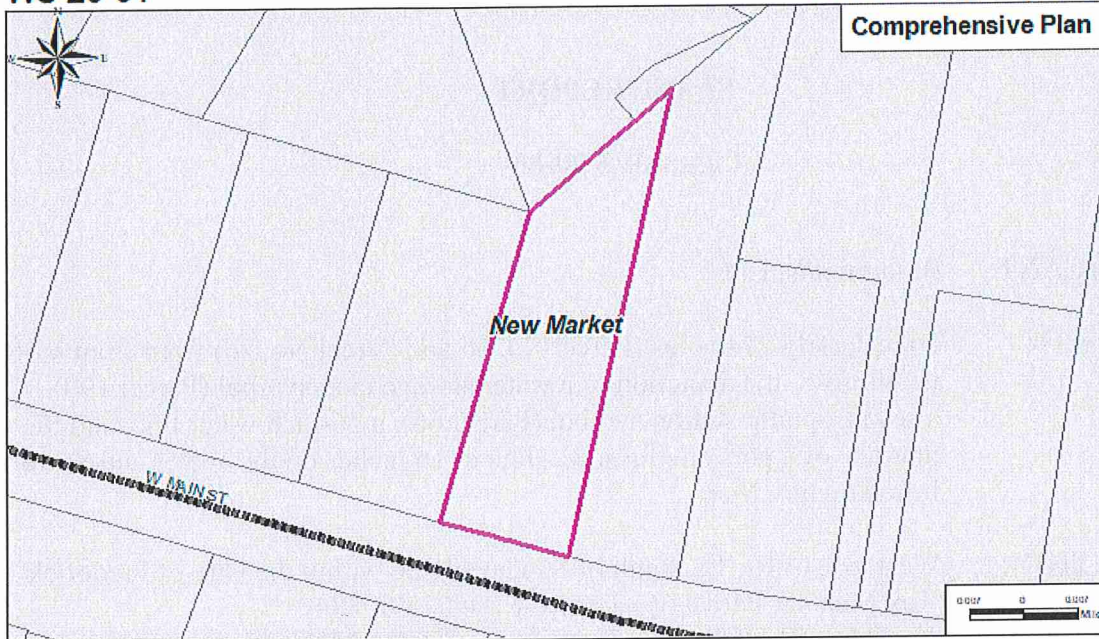


Summer 2020 Cycle

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WS 20-04

Town of New Market



WATER & SEWERAGE PLAN AMENDMENTS
Summer 2020 Cycle

STAFF REPORT

Case # WS-20-06

APPLICANT: Bloomfields, LLC

REQUEST: To reclassify 274 acres (Parcel No. 66 and Parcel No. 26) from from W-5/S-5 to W-3/S-3, the depiction of a water storage tank symbol (Parcel 190), a sewage pump station symbol (Parcel 66), a 16-inch water line, and the upgrade of a portion of a sewer line to 16 inches on the Water and Sewer Infrastructure Map

LOCATION: West side of Rt. 15, south of Sundays Lane within the City of Frederick
(Tax Map 48, Parcel 66. Property ID#02-466384)
(Tax Map 48, Parcel 26. Property ID#02-466392)
(Tax Map 48, Parcel 190. Property ID#02-589843)

Comprehensive Plan — Mixed Use (City Comprehensive Plan

Zoning — MU-1 (City Zoning)

Development Status

The subject properties were annexed into the City on September 6, 2012 through Resolution 12-30, with amendments to the 2012 Resolution conditions occurring in 2017, as memorialized in Resolution 17-25, adopted by the City on December 12, 2017. The MU-1 Zoning was added at the time of annexation in 2012.

The City Planning Commission granted Master Plan approval in February 2020 for the development of a maximum of 1,500 residential, age-restricted units on the subject property. The City's Master Plan approval process for subdivision does not include detailed information on the provision of public water and sewer service for development projects. Only Section I of the project, encompassing 310 units, has received Preliminary Subdivision Plat approval and Site Plan approval from the City Planning Commission.

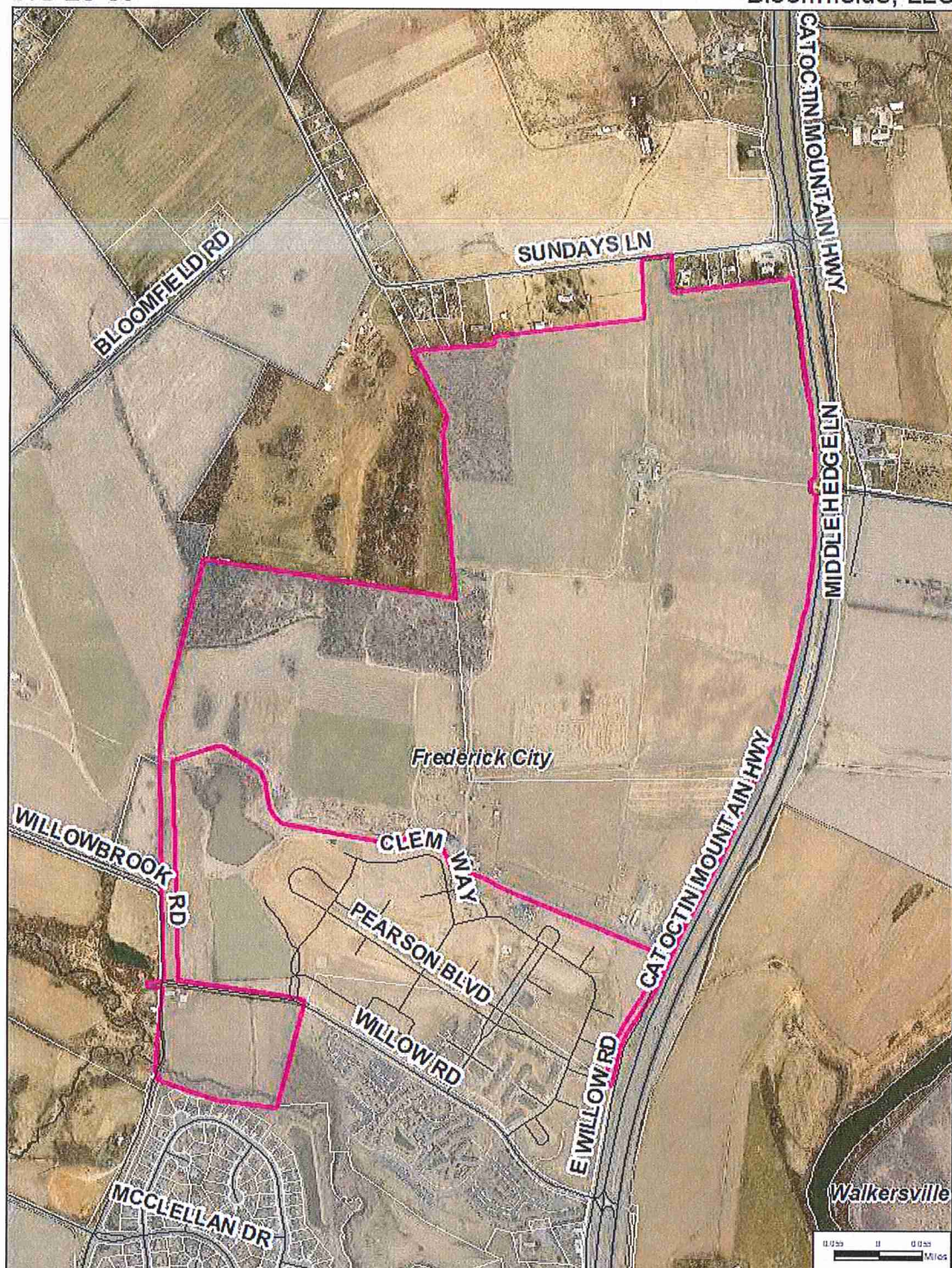
Water & Sewerage Plan Status

The subject properties were included in the formal Potomac River Water Supply Agreement (PRWSA) service boundary as part of the original 2006 Agreement, and in the 2013 revisions to the PRWSA. The joint City/County PRWSA addresses the provision of water system capacity to the City for use and allocation. The City has provided the required letter describing available water capacity for the project.

Sewer service for the subject property includes a combination of force mains, gravity sewers and a pump station that also includes provision for the development of properties on the east side of Route 15, with ultimate conveyance to the County's Tuscarora Interceptor and treatment at the Ballenger-McKinney Wastewater Treatment Plant. An upsizing of a small portion of sewer line to 16 inches is also shown that crosses Tuscarora Creek at Homewood at Crumland Farms. A new 16-inch water line is also included in the application to serve the property.

STAFF RECOMMENDATION:

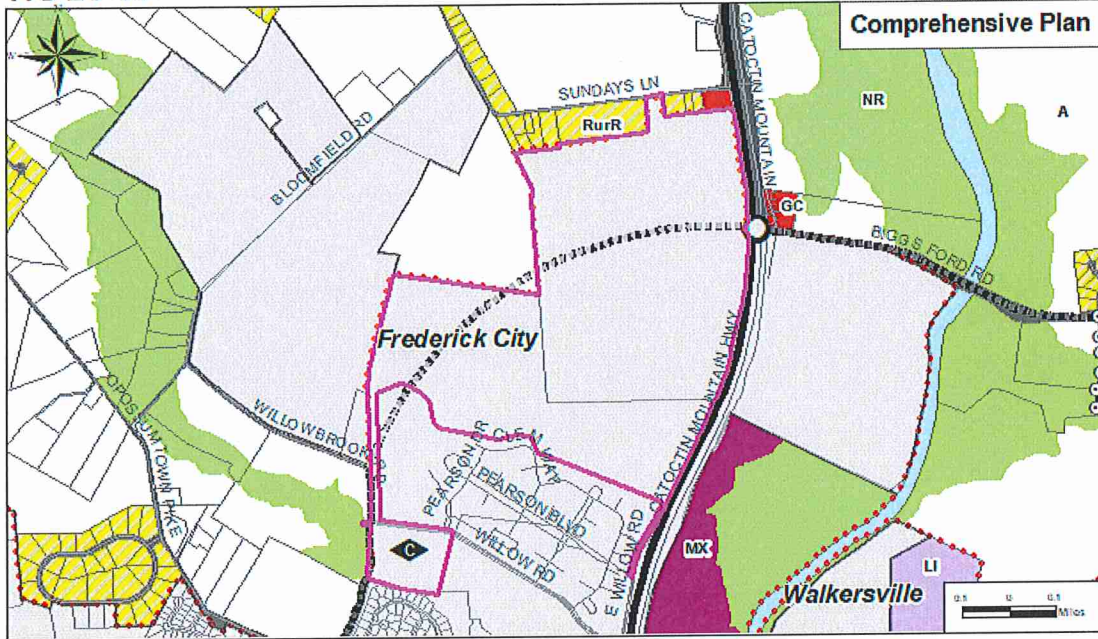
The subject property is located within The City of Frederick, within a Community Growth Area, and within a water and sewer service area. Staff recommends the Planning Commission make a finding of consistency with the City of Frederick Comprehensive Plan.



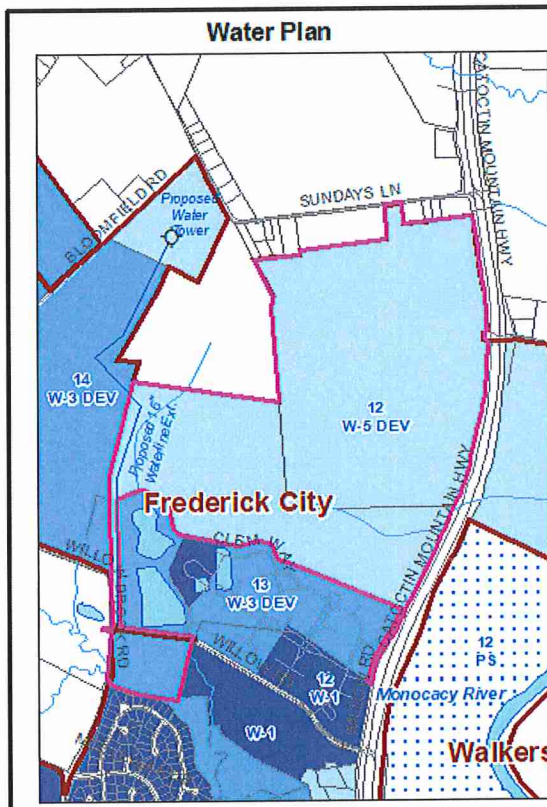
WS 20-06

Bloomfields, LLC

Comprehensive Plan



Water Plan



Sewerage Plan

